

1 NOT FOR PUBLICATION
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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Alan M Bartlett,

10 Petitioner,

11 v.

12 Paul Penzone, et al.,

13 Respondents.
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No. CV-19-02467-PHX-SRB (ESW)

ORDER

15 Petitioner, Alan Bartlett, filed his Petitioner for Writ of Habeas Corpus on April 15,
16 2019 alleging that his pending state court prosecution violates the Double Jeopardy Clause
17 of the United States Constitution. After Respondents answered and Petitioner filed a Reply,
18 the Magistrate Judge issued her Report and Recommendation concluding that there was no
19 Double Jeopardy Clause violation arising from his prosecution in Arizona because his prior
20 prosecution and conviction in the United States District Court for the District of Alaska
21 was a prosecution by a different sovereign and a second prosecution, even for the same
22 offenses by the State of Arizona would not violate Double Jeopardy. The Magistrate Judge
23 also found that Petitioner's Arizona prosecution was not for the same crimes prosecuted in
24 Alaska federal court. While the nature of the crimes were similar, the Arizona charges are
25 alleged to have occurred at different times and involved different victims than the Alaska
26 federal convictions. The Magistrate Judge recommended that the Petition for Writ of
27 Habeas be denied and that a Certificate of Appealability also be denied.

28 Petitioner filed a document entitled "Petitioner's Objection to Report and

1 Recommendation” to which Respondents responded. Petitioner’s Objection is not to the
2 proposed findings and recommendation of the Magistrate Judge. The Report and
3 Recommendation is not even mentioned in the so-called Objection. Rather, Petitioner
4 makes fanciful claims about the validity of these proceedings and the authority of the Court.
5 As Respondents note, the Court has no obligation to make *de novo* review of the matter in
6 the absence of objections to the findings or recommendation of the Magistrate Judge.

7 In any event the Court is agreement with the Report and Recommendation of the
8 Magistrate Judge that the Double Jeopardy Clause does not bar Arizona’s prosecution of
9 Petitioner.


10 **IT IS ORDERED** adopting the Report and Recommendation of the Magistrate
11 Judge as the order of this Court.

12 **IT IS FURTHER ORDERED** denying the Petition for Writ of Habeas Corpus and
13 dismissing it with prejudice.

14 **IT IS FURTHER ORDERED** denying any Certificate of Appealability and leave
15 to proceed in forma pauperis on appeal because Petitioner has not made a substantial
16 showing of the denial of a constitutional right.

17 **IT IS FURTHER ORDERED** directing the Clerk to enter judgment accordingly.

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19 Dated this 27th day of November, 2019.

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24 Susan R. Bolton
25 United States District Judge
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